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Government
Publications



Citizens' Guide

Land Severances



Introduction

Land use planning affects almost every aspect of life in Ontario. It helps decide where in our communities homes and factories should be built; where parks and schools should be located; and where roads, sewers and other essential services should be provided.

Land use planning means managing our land and resources. It helps each community to set goals about how it will grow and develop and to work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. It balances the interests of individual property owners with the wider interests and objectives of the whole community.

Good planning leads to orderly growth and the efficient provision of services. It touches all of us and helps us to have the kind of community we want.

But often we don't see how it affects our lives and property each day. And it often seems confusing.

This series of Citizens' Guides has been prepared to help you understand how the land use planning process works in Ontario. They are intended to give general information only and are not an interpretation of the Planning Act or any other act. You should refer to the legislation for specific requirements and procedures. The titles of the guides are:

1. The Planning Act
2. Official Plans
3. Zoning By-laws
4. Subdivisions
5. Land Severances
6. Ontario Municipal Board
7. Northern Ontario
8. Building Permits
9. One-Window Provincial Planning Service/
Municipal Plan Review
10. Making Mediation Work For You

What is a land severance?

A land severance is the authorized separation of a piece of land to form two new adjoining properties. This is commonly known as a **consent**. It is required if you want to sell, mortgage, charge or enter into any agreement for (at least 21 years) a portion of your land. If the two parts are split already, by a road or railway for example, consent is not needed.

Most municipalities with an approved official plan have specific policies and requirements for land severance. In addition to the division of land, rights-of-way, easements and any change to your existing property boundaries also require land severance approval.

If several severances are intended in the same area, a plan of subdivision may be more appropriate. It is up to the consent-granting authority in your area to decide whether a consent is the best approach or if a plan of subdivision is necessary for the proper and orderly development of your community. (See Subdivisions, No. 4 in the series.)

Why do I need approval to sever my land?

The indiscriminate division of land without anyone's approval could have a long-term, negative impact on your community. For example, it could result in over-extension of municipal services, such as snow plowing, school busing and garbage collection. Or it might result in damage to the natural environment, because lots are too small to accommodate adequate sewage disposal systems.

Official approval is required to ensure that:

- land severances are considered within an established community planning framework
- new lots and new land uses do not conflict with the overall future planning goals and policies of your community

- consideration is given to the effects of the division of land on the site, on the neighbours and on the community as a whole

Once a severance has been approved, the new land parcels may be sold or resold without further approval. The only exception is if the consent-granting authority has specified otherwise at the time of approval.

Where do I go for a land severance?

The approval of severances can rest with one of a number of different governing bodies. Depending on the area, consent-granting authority may be carried out by the county, regional, metropolitan or district council, which may delegate the function to a local or area municipality, a land division committee or to a municipal planning authority. The local or area municipality may, in turn, use a by-law to delegate its approval functions to a committee of council, an appointed officer or to a committee of adjustment. In northern Ontario, outside the major urban centres the Minister of Municipal Affairs and Housing grants consents, although this power is often delegated to a planning board. (See Northern Ontario, No. 7 in the series.)

To determine the consent-granting authority in your area, contact your municipal clerk or secretary-treasurer of the planning board.

What is the process for a severance application?

Before you apply for a land severance, you should consult with municipal staff and/or the consent-granting authority in your area. They will be able to tell you how to apply, what supporting material you must submit (e.g. sketches, plans), if there are any special land severance requirements set out in the official plan and what other permits and approvals (e.g. a septic tank permit) may be required.

When applying for a land severance, you may be charged a fee for processing the application. To determine the processing fee in your area, contact the appropriate consent-granting authority.

As an applicant, you are usually required to fill out a consent application form provided by the consent-granting authority.

A typical application form contains both the information which is prescribed by minister's regulation as well as additional information which the consent-granting authority may require. The more information provided, the less likely delays will occur in the review.

If you do not provide all the information prescribed by minister's regulation, the consent-granting authority may refuse to accept or to further consider your application. Also, the 60-day time frame for making a decision does not begin until all the prescribed information is received. You are encouraged to contact the appropriate consent-granting authority if you need help in assessing what information is required.

The consent-granting authority must give notice of application before a decision is made. Notice of application is given at least 14 days in advance of a decision by the consent-granting authority, usually through local newspapers or by mail. Any person or public body may submit his or her views to the consent-granting authority.

The consent-granting authority may consult with agencies, boards, authorities or commissions before making a decision.

When the consent-granting authority has decided on your application, it is required to send a notice of decision approving or refusing the application within 15 days of the decision being made, to any person or public body requesting to be notified. When a notice of decision is given, a 20-day appeal period follows.

How is the severance application evaluated?

In considering each application for land severance, the consent-granting authority evaluates the merits of each proposal against criteria such as:

- conformity with the official plan and compatibility with adjacent uses of land
- compliance with local zoning by-laws
- suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created
- adequacy of vehicular access, water supply, sewage disposal
- the need to ensure protection from potential flooding

In considering a consent application, the consent-granting authority shall have regard to the Provincial Policy Statement.

The Provincial Policy Statement contains clear, overall policy directions on matters of provincial interest related to land use planning and development. The “shall have regard to” rule means that the consent-granting authority is obliged to consider the application of a specific policy statement when carrying out its planning responsibility. It is expected that the consent-granting authority will implement the Provincial

Policy Statement in the context of other planning objectives and local circumstances. (See The Planning Act, No. 1 in the series, and the Provincial Policy Statement. Both may be obtained through the government offices listed at the end of this guide.)

What about conditions of severance approval?

A severance approval may have certain conditions attached to it including requirements for road widenings, parkland dedication, or a rezoning (or minor variance) to allow a new land use. In addition, the property owner may be required to enter into an agreement with the municipality to provide future services or facilities. Severance conditions must be met within one year.

When all the conditions have been met by the applicant, a certificate is issued by the authority, and the severance goes into effect.

If the transaction originally applied for – sale of property, for example – is not carried out within two years of the date of the certificate, the severance is considered lapsed. An earlier lapsing date can be specified by the consent granting-authority at the time of the severance decision.

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How can you get involved?

If you are concerned about a severance application that may affect you, you should:

- find out as much as possible about the application
- discuss your concerns with the consent-granting authority
- write the consent-granting authority

If the consent-granting authority knows about your concerns early in the process, it can take them into account before making a decision on the severance application.

What rights of appeal do you have?

Appeals to the Ontario Municipal Board (OMB) can be made in three different ways:

1. Any person or public body may appeal a consent-granting authority's decision and any condition within 20 days of the notice of decision.
2. The applicant may appeal if no decision is made within 60 days from the date of receipt of the application by the consent-granting authority containing the prescribed information.
3. Any person or public body may appeal any changed conditions imposed by the consent-granting authority within 20 days after the notice of changed conditions has been given.

Appeals must be filed with the consent-granting authority, accompanied by reasons for the appeal and the fee required by the OMB.

The OMB is an independent administrative tribunal responsible for hearing appeals and deciding on a variety of contentious municipal matters. (See the Ontario Municipal Board, No. 6 in the series.)

What are the powers of the Ontario Municipal Board?

When a decision is appealed, the OMB will hold a hearing where you will have the chance to present your case. The OMB can make any decision that the consent-granting authority could have made on the application.

The OMB also has the power to dismiss an appeal without holding a hearing. For more information, see the Ontario Municipal Board, No. 6 in the series.

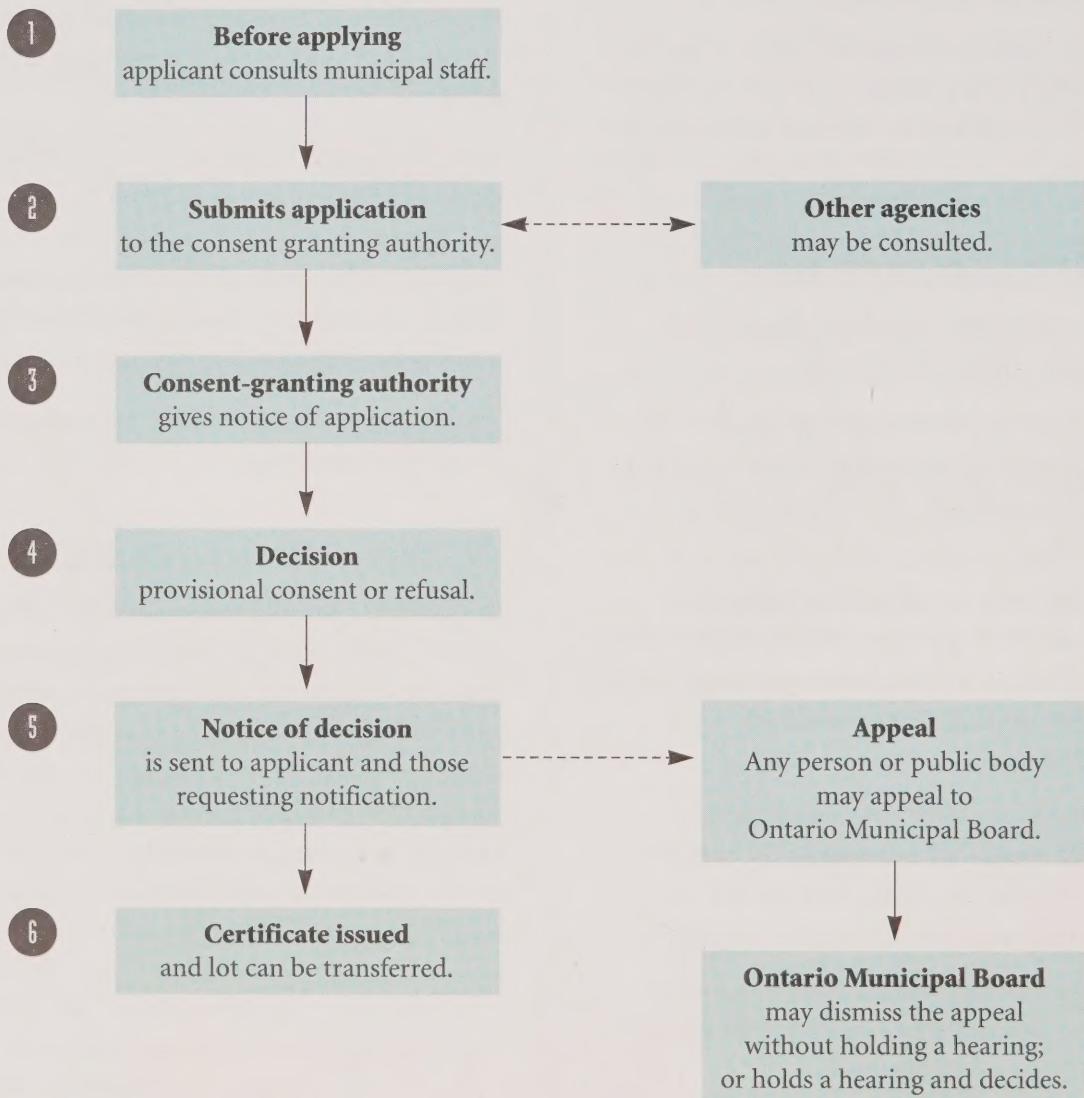
Appealing a planning decision to the OMB is a serious matter. It can take considerable time, effort and in some cases, money for everyone involved. A hearing may last only a few hours if the matter is quite simple, but for more complicated matters, a hearing can last for several days or even weeks.

The OMB will make a decision based on the facts presented at a hearing.

What other approvals may be required?

In addition to the planning approvals and building permit which are needed for a building project, there are other permits and approvals required in particular circumstances. For example, a septic tank permit is required for a new septic system. In cottage areas, a permit may be required from the Ministry of Natural Resources before you do any construction in the water (for example, a dock or boathouse with solid foundation).

The Land Severance Process



Land Severances

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How can you find out more?

For more information about land use planning in your community or for copies of the Citizens' Guides, contact your municipal clerk or planning department, or your nearest Ministry of Municipal Affairs and Housing office:

Provincial Planning Services Branch

(416) 585-6014

Toll Free : 1-800-935-0696

Fax: (416) 585-4245 or 585-4006

Planning Policy Branch

(416) 585-6235

Fax: (416) 585-6870

Regional Operations Branch - Toronto

(416) 585-7296

FAX: (416) 585-7292

Eastern - Kingston

(613) 548-4304

Toll Free : 1-800-267-9438

FAX: (613) 548-6822

Southwestern - London

(519) 673-1611

Toll Free : 1-800-265-4736

FAX: (519) 661-1677

Northeastern - Sudbury

(705) 564-0120

Toll Free : 1-800-461-1193

FAX: (705) 564-6863

Northwestern - Thunder Bay

(807) 475-1651

Toll Free : 1-800-465-5027

FAX: (807) 475-1196

Central - Toronto

(416) 327-0017

Toll Free : 1-800-668-0230

FAX: (416) 327-0980

Copies of the Guides may also be obtained from

Publications Ontario (416) 326-5300 or

1-800-668-9938

Visit the Ministry's Internet site at:

www.mmah.gov.on.ca



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